

**Policies Regarding Denial of Funding to Local Governments
(Community Policy and Management Teams) not in Compliance
with Provisions of the Comprehensive Services Act for At-Risk
Youth and Families (CSA)**

House Bill 1679 (Chapter 397) and Senate Bill 1171 (Chapter 413) enacted by the 2011 Virginia General Assembly revised the Code of Virginia § 2.2-2648 to read:

20. Deny state funding to a locality, *in accordance with subdivision 19*, where the CPMT fails to provide services that comply with the Comprehensive Services Act (§ 2.2-5200 et seq.), *any other state law or policy, or any federal law pertaining to the provision of any service funded in accordance with § 2.2-5211*; (new language in italics)

I. Review of state law, policy or federal law that would require compliance by a locality for reimbursement of the cost of services provided

A review of the role of entities involved in the provision of services through the Comprehensive Services Act is necessary to ensure understanding of what the Code of Virginia, federal law and other requirements must be met in order to access funds through the Comprehensive Services Act.

General Statutory Requirements of CSA Entities

State Child-Serving Agencies (*Virginia Departments of Social Services, Behavioral Health and Developmental Services, Juvenile Justice, Medical Assistance Services and Education*)

It is not the role of the Office of Comprehensive Services to develop, revise or oversee any of the policies of other state agencies. The Office of Comprehensive Services works with these agencies to align policy so it is consistent with the Comprehensive Services Act. It is important to note that these agencies serve multiple children and families that are not involved with services provided by the Comprehensive Services Act. Those policies that do intersect with the Office of Comprehensive Services will be attached to the CSA manual found at www.csa.virginia.gov. These agencies are the Department of Social Services, the Department of Education, the Department of Juvenile Justice and the Department of Behavioral Health and Developmental Services.

Office of Comprehensive Services

The statutory responsibilities of the Office of Comprehensive Services are described primarily in COV §2.2-2649 and in the Appropriations Act (Item 274). These responsibilities include the development and recommendation to the SEC of programs and policies that promote the intent of the Comprehensive Services Act. The Office of

Comprehensive Services fiscal policies are found in the CSA Manual at http://www.csa.virginia.gov/html/csamanual/CSA%20Policy%20Manual2011_020911update The Code of Virginia places the responsibility of developing and recommending policies to ensure compliance with CSA with the Office of Comprehensive Services.

Community Policy and Management Team (CPMT)

The Community Policy and Management Team (CPMT) is responsible for management and oversight of the use of CSA pool funds. It has specific authority by Code for the provision of CSA services (COV § 2.2-5206 and Item 274 of the Appropriations Act). Membership of the CPMT is outlined in Code (§ 2.2-5205) and includes local leaders, such as the public agency directors, private providers and parents. Members are appointed to the CPMT by the local governing body. (§ 2.2-5204)

Providers of Services

Community Policy and Management Teams and Family Assessment and Planning Teams (CPMT) each have a direct relationship with the service providers who work with children and families. The CPMT is responsible for service needs assessment and planning (§ 2.2-5206) and is the local fiscal authority which approves or denies funding for service expenditures. CPMTs are empowered by statute to enter into contracts for service provision. Family Assessment and Planning Team (FAPT) members work closely with providers regarding the development and provision of individualized services for children and their families (§ 2.2-5208).

The Office of Comprehensive Services strongly recommends that CPMTs enter into contractual relationships with providers in order to clearly delineate the expectations, responsibilities and obligations of each party. Contracts are a well-accepted means of negotiating expectations. A standard model contract is available on the CSA website for use by CPMTs. (<http://www.csa.virginia.gov/html/news/news061903stdct.cfm>)

The Office of Comprehensive Services Relationship with Local CPMT

The Office of Comprehensive Services maintains a fiscal and program relationship with local governments, specifically the Community Policy and Management Team. As noted above, the CPMT has the responsibility and authority to contract with providers regarding the provision of services to community children and families. The Office of Comprehensive Services does not have a fiscal or contractual relationship with providers of services; rather, it is the role of the local CPMT to work directly with providers.

Local governments enter into agreements with providers for child-specific services. Providers are paid by local governments through the CPMT for these services. Local governments, in turn, through the CPMT, request a state match for partial reimbursement of the aggregate cost of the CSA funded services. There is no current mechanism for the Office of Comprehensive Services to know which providers may be affected by denial of funding to a locality. As the relationship exists between the Office of Comprehensive

Services and the locality, it is not appropriate for the Office of Comprehensive Services to notify providers if state match funds are being denied to a locality; it is the local government or CPMT's decision regarding such notification. The locality may elect to continue to work with that service provider, but utilize a different funding source, including local-only funds, to pay for those services.

All of the requirements specific to the Comprehensive Services Act are outlined in the Code of Virginia and the Appropriations Act (Item 274). The statutory requirements and authority of the State Executive Council (§ 2.2.-2648) the State and Local Advisory Team (§ 2.2-5202), the Office of Comprehensive Services (§ 2.2-2649), the local Community Policy and Management Team (§ 2.2-5206), and the local Family Assessment and Planning Team (§ 2.2-5208) are described. Additional requirements are found in the Comprehensive Services Act (§ 2.2-5200 et. seq.), the Appropriations Act and State Executive Council policy. **Violations of any state or federal law or policy may result in denial of funds.**

Comprehensive Services Act Manual

The Comprehensive Services Act (CSA) Manual, found at www.csa.virginia.gov offers an organized look at the relevant statutes and policy decisions made by the SEC since the inception of CSA. *Only statutory requirements and SEC policy are in the manual proper.* Toolkits and Appendices provide additional information, including the policies and requirements provided by the agencies whose services the CSA must supply funding, as well as Guidelines and Frequently Asked Questions (FAQs). Denials of the CSA state match funding are based on a locality's failure to comply with, or violations of, statutory requirements and policy, whether they are specific to the CSA or are those promulgated by the participating agencies.

State Licensure for the Provision of State-funded Services

Any service which requires licensure can only be rendered by a provider licensed to provide that service in Virginia. State law requiring licensure of providers may be found at § 37.2-405.

The following state agencies require licensure of specific services that are provided to children and families funded by the CSA. Each maintains a website listing of provider licensure and status of that licensure.

Department of Behavioral Health and Developmental Services

For a listing of providers licensed by the Virginia Department of Behavioral Health and Developmental Services, go to <http://www.dbhds.virginia.gov/LPSS/LPSS.aspx> Details such as the type of license, expiration date, licensure number and any stipulations are noted. More details regarding the DBHDS licensing process may be found at <http://www.dbhds.virginia.gov/OL-default.htm>

The Department of Behavioral Health and Developmental Services has a list of services that require a license by that agency. That list can be located at <http://www.dbhds.virginia.gov/OL-default.htm> and is included as Attachment A to this policy document.

Virginia Department of Education

Information regarding the licensure of special education providers may be found at http://www.doe.virginia.gov/special_ed/day_residential_schools/index.shtml. The Code of Virginia requires licensure for schools for students with disabilities issued by the Board of Education (§ 22.1-323). A listing of approved private day and residential facility school providers may be found at the same link noted above - http://www.doe.virginia.gov/special_ed/day_residential_schools/index.shtml

Department for Social Services

A listing of the types of programs (child care, family homes, residential facilities, etc.) which are licensed by the Virginia Department for Social Services is found at http://www.dss.virginia.gov/family/children_background.cgi. This listing includes links for each type which take the reader to information including, but not limited to, the applicable regulations and code references, current providers and the status of licensure of providers.

Department of Juvenile Justice

The Board of Juvenile Justice does not “license” agencies or programs that may provide services to children and families that are funded by CSA. However, it does provide certification, a reasonable equivalent of licensure, to various locally-operated group homes that may potentially provide services funded by CSA. The specific regulatory authority under which the Board of Juvenile Justice certifies these programs is found in [Virginia Administrative Code 6VAC35-51](#) and [Virginia Administrative Code 6VAC35-140](#)

Current Statutory Requirement for Other Agency Contact with OCS

Agencies which provide licensure of services for children served through CSA must routinely contact the Office of Comprehensive Services to provide updated licensure status information which the Office of Comprehensive Services immediately passes on to localities via a state list serve.

Legislation enacted by the 2007 General Assembly requires specific actions if the licensure status of a residential facility is lowered to provisional because of multiple health and safety violations or human rights violations and children placed in that facility are receiving CSA-funded services. An assessment of the individual child receiving CSA-funded services should be conducted to ascertain the continued safety and

appropriateness of the placement for that child. No additional children may be placed using CSA funds in the facility until full licensure status is restored. (§ 2.2-5211.1) Because of this requirement, the Office of Comprehensive Services began notification via the CSA list serve to localities when the Office of Comprehensive Services is notified by DSS, DOE or DBHDS of licensure changes.

II. Responsibility of the locality and other state agencies for notifying the Office of Comprehensive Services when services are suspected or determined “non-compliant” by agencies other than the Office of Comprehensive Services

Any state or local agency, or CPMT, that has cause to believe that the statutory requirements of CSA, including those relating to licensure, are not being met by a locality shall contact the Director of the Office of Comprehensive Services. State agencies are responsible for notifying the Office of Comprehensive Services when a provider loses a license, even if that provider is not currently billing for services. OCS will make reasonable efforts to notify localities.

Copies of local audits which include review of CSA funding must be provided to the Office of Comprehensive Services within three business days from presentation to the local governing body. If the local audit determines that services provided which affect CSA, for example Title IV-E, were inappropriate, the locality must inform the Office of Comprehensive Services.

Contacting the Office of Comprehensive Services

The Director of the Office of Comprehensive Services may be reached at:

1604 Santa Rosa Road,
Suite 137
Richmond, Virginia 23229

or by phone at (804) 662-9815. Information may also be faxed to (804) 662-9831 or by email at csa.office@dss.virginia.gov.

III. Notification to localities who are suspected or determined “non-compliant” by the Office of Comprehensive Services

Steps A-F outline the procedure followed by Office of Comprehensive Services to investigate suspected or determined non-compliance by a locality.

- A. The Office of Comprehensive Services will investigate the complaint by reviewing available data, including but not limited to, documentation submitted by the complainant, CSA data set and fiscal pool fund reporting reimbursement, local financial and program records, including CPMT and FAPT minutes, other

information supplied by the locality and interviewing appropriate individuals, if necessary. The Office of Comprehensive Services may consult with the Office of the Attorney General and any other parties it deems appropriate.

- B. State and local agencies, including the one reporting the alleged inappropriate use of funds, shall supply any necessary and/or requested supporting documentation relevant to the allegation.
- C. If the Office of Comprehensive Services is unable to determine the validity of the report or determines there was no violation, the incident is closed with notification to the reporting state agency and the CPMT in question.
- D. If the Office of Comprehensive Services suspects non compliance but has not yet made a determination of such, the Office of Comprehensive Services shall communicate with the Chief Administrative Officer of the locality and the CPMT Chair as appropriate to resolve the issue.
- E. If the Office of Comprehensive Services determines that a violation of state law or policy, or any federal law pertaining to the provision of any service funded in accordance with § 2.2-5211 has occurred, the Office of Comprehensive Services will notify the chief administrative officer of the local government and the CPMT chair within five business days. The Office of Comprehensive Services will request the locality immediately discontinue that practice and the locality should notify any affected providers. The Office of Comprehensive Services will also describe the actions it intends to take, if any. Such action may include but is not limited to, a corrective action plan developed in consultation with the locality and/or denial of state funding. Failure of the Office of Comprehensive Services to meet the timeline does not preclude the Office of Comprehensive Services from denying funds or recovering payments.
- F. The process described in the CSA Dispute Resolution Process (§2.2-2648 D 19) and the State Executive Council policy appeals process (CSA Manual, Section 3.4) will apply. The Dispute Resolution Process is outlined in the CSA Policy Manual at <http://www.csa.virginia.gov/html/csamannual/CSA%20Policy%20Manual2011020911update.pdf>.

IV. Responsibility of the agencies other than the Office of Comprehensive Services for supplying supportive documentation when they determined the services were non-compliant.

If another state agency learns during the course of its work (routine reviews, audits, complaint investigations, etc.) of a violation of state law affecting the provision of services under the Comprehensive Services Act, the agency shall contact the Office of

Comprehensive Services using the methods noted in Section II and provide any supporting documentation.

Steps A-F noted above in Section III will be followed.

V. Notification by the Office of Comprehensive Services to the locality whose services were determined “non-compliant” by agencies other than the Office of Comprehensive Services and therefore are not eligible for CSA funding.

If another agency discovers or learns of what it believes to be a possible violation of the CSA, the responsible agency staff person should contact the Executive Director of the Office of Comprehensive Services (contact information in Section II) and explain what agency policy or federal or state law is involved, how the other agency believes the violation has occurred and the impact of, or relationship to, the CSA.

Steps A-F noted in Section III above will be followed.

VI. Notification by the Office of Comprehensive Services to the locality whose services were determined “non-compliant” with the provisions of the Comprehensive Services Act and therefore is not eligible for CSA funding.

Steps A-F noted in Section III above will be followed.

VII. Notifying and seeking support from the agencies other than the Office of Comprehensive Services when the Office of Comprehensive Services has reason to believe the services were non-compliant with that other agency’s requirements.

If the Office of Comprehensive Services becomes aware of a violation of another agency’s laws, policies or requirements that affects the provision of services funded by the Comprehensive Services Act, the Executive Director (or designee) will contact the appropriate staff person at the other agency. The Office of Comprehensive Services will provide any supporting documentation requested by the other agency.

VIII. Determination of the “look-back” period on denial of funds.

This policy takes effect July 1, 2011. Pursuant to § 2.2-2648, the Office of Comprehensive Services may deny funding to local governments not in compliance with the provisions of the Comprehensive Services Act and federal and state law.

The Office of Comprehensive Services may review payments and conduct audits for a period of time, three years before or after the date of the alleged noncompliance (not to

exceed a total of three years), regardless of the date of discovery of the alleged noncompliance.

Should the Office of Comprehensive Services discover noncompliance, the Office of Comprehensive Services may request that the Auditor of Public Accounts (APA) determine whether to pursue an audit of a locality. This policy should not be construed to put any limitations on the APA or other parties that have responsibilities regarding the Commonwealth's or federal funds and their investigation of the use of those funds.

IX. Technical Assistance and Training

The Office of Comprehensive Services, in collaboration with partner agencies, will provide additional technical assistance to local governments and CSA Coordinators in the development of each locality's CSA policies and procedures. The Office of Comprehensive Services, in collaboration with partner agencies, will provide training and technical assistance related to laws, regulations and policies that would be confronted by local systems. Those that are most common would include:

- Licensure laws promulgated by partner agencies
- Issues related to federal laws that supersede state law, such as IDEA or Fostering Connections
- CSA fiscal policies promulgated by the SEC
- Basic facts of the Comprehensive Services Act, such as the responsibilities of the CPMT for fiscal accountability
- Eligible populations to access CSA pool funds

This is not an exhaustive list and will be modified and updated as changes occur.

Currently the Office of Comprehensive Services does not publicly post information regarding alleged CPMT violations of the CSA requirements or denial of funding to a locality. This decision is made at the discretion of the local CPMT or local government who may choose whether or not to share this information. If CPMTs or local governments wish to share this information, the CPMT may post it on the "CSA Discussion List" (list serve) and request that the Office of Comprehensive Services post the information on the CSA website. If the disagreement is not resolved and an appeal is made to the SEC, the information regarding the denial and appeal will become public.

After July 1, 2011, the Office of Comprehensive Services will publish on the CSA website and post on the list serve a brief description of any violation which has resulted in the denial of funds to a locality. This information will be non-identifying. This information will be included in training and technical assistance activities conducted by the Office of Comprehensive Services.

Any local government official or member of the CPMT may sign up to receive e-mail notification via the CSA Discussion List of any changes that may affect reimbursement. Such changes are routinely communicated via the list serve and by posting on the CSA

website. To register for the list serve, individuals should e-mail the CSA webmaster at www.csa.virginia.gov.

To register for trainings or to receive technical assistance, individuals may contact the Office of Comprehensive Services.

ATTACHMENT A

Services requiring licensure (<http://www.dbhds.virginia.gov/OL-default.htm>) by the Virginia Department of Behavioral Health and Development Services

PART II.

LICENSING PROCESS.

12 VAC 35-105-30. Licenses.

A. Licenses are issued to providers who offer services to one or a combination of the following disability groups: persons with mental illness, persons with mental retardation, persons with substance addiction or abuse problems, or persons with related conditions served under the IFDDS Waiver or persons with brain injury served under the Brain Injury Waiver or in a residential service.

B. Providers shall be licensed to provide specific services as defined in this chapter or as determined by the commissioner. These services include:

1. Case management;
2. Clubhouse;
3. Community gero-psychiatric residential;
4. Community intermediate care facility-MR;
5. Crisis stabilization (residential and nonresidential);
6. Day support;
7. Day treatment;
8. Group home residential;
9. Inpatient psychiatric;
10. Intensive Community Treatment (ICT);
11. Intensive in-home;
12. Intensive outpatient;
13. Medical detoxification;
14. Mental health community support;
15. Opioid treatment;
16. Outpatient;
17. Partial hospitalization;

18. Program of assertive community treatment (PACT);
19. Psychosocial rehabilitation;
20. Residential treatment;
21. Respite;
22. Social detoxification;
23. Sponsored residential home;
24. Substance abuse residential treatment for women with children;
25. Supervised living; and
26. Supportive in-home.